

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

**ANDREW ROSENTHAL,**

**Plaintiff,**

**vs.**

**MYRNA HERSHMAN, JANET  
WEINBERG, JULIE F. WILSON,  
CHERYL TRASK, YVONNE MASON,  
COMMUNITY HOUSING  
MANAGEMENT CORP. and  
COVENANT HOUSE/CHAI APARTMENTS,**

**Defendants.**

**Case No. 4:05-CV-1024-CDP**

**MEMORANDUM AND ORDER**

This matter is before the Court upon the application of Andrew Rosenthal for leave to commence this action without payment of the required filing fee. Upon consideration of the financial information provided with the application, the undersigned finds that the applicant is financially unable to pay the filing fee.

Plaintiff brings this action pursuant to Title VII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 ("FHAA"). 42 U.S.C. §§ 3601, *et seq.* The named defendants are Myrna Hershman (president), Janet Weinberg (registered agent), Julie F. Wilson (director of admissions), Cheryl Trask (intake representative); Yvonne Mason (executive secretary), Community Housing Management Corp. and Covenant House/Chai Apartments. Plaintiff alleges that defendants denied him available housing because of his handicap.

The FHAA makes it unlawful "[t]o discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of that person." 42 U.S.C. § 3604(f).

Discrimination includes "a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling." *Id.* § 3604(f)(3)(B). Thus, plaintiff's claims are not subject to dismissal at this time.

As to plaintiff's motion for appointment of counsel, the Court believes that plaintiff's claim is not so complex legally or factually as to require appointment of counsel at this time. *See Stevens v. Redwing*, 146 F.3d 538, 546 (8th Cir. 1998) (discussing factors considered by court in determining whether to appoint counsel). Additionally, based on plaintiff's complaint, it appears that he can adequately prosecute his claim for the foreseeable future. *Id.* Therefore, the Court will deny plaintiff's motion for appointment of counsel without prejudice.

As a final matter, plaintiff moves to amend his complaint to add Jim Kern, Comptroller of Covenant House/Chai Apartments, as a defendant. The Court notes that plaintiff's motion is an attempt to amend his complaint by interlineation and not to supercede his previous complaint. Pro se pleadings must be construed liberally, and "in circumstances where a petitioner's poverty forces him to proceed *pro se*, a court ought not to reject on technical grounds a right asserted within the [pro se] complaint." *Miles v. Ertl Co.*, 722 F.2d 434, 434 (8th Cir. 1983) (quoting *Drone v. Hutto*, 565 F.2d 543, 544 (8th Cir.1977) (internal citation omitted). Plaintiff has alleged policies and practices of refusal to make reasonable accommodation for persons with handicaps. The Court cannot discount the possibility that the comptroller, or chief financial officer of defendant Covenant House/Chai Apartments, may be involved in policy and practice decisions, and, as such, may be a proper defendant in this matter. Accordingly, the Court will grant plaintiff's motion to add defendant.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's motion for leave to proceed in forma pauperis [Doc. #1] be **GRANTED**. *See* 28 U.S.C. § 1915(a)(1).

**IT IS FURTHER ORDERED** that plaintiff's motion for appointment of counsel [Doc. #4] be **DENIED**, without prejudice.

**IT IS FURTHER ORDERED** that plaintiff's motion to add defendant [Doc. #6] be **GRANTED**.

**IT IS FURTHER ORDERED** that the Clerk shall docket this case as follows:  
*Andrew Rosenthal v. Myrna Hershman, Janet Weinberg, Julie F. Wilson, Cheryl Trask, Yvonne Mason, Community Housing Management Corp., Covenant House/Chai Apartments and Jim Kern.*

**IT IS FURTHER ORDERED** that the Clerk shall issue process or cause process to be issued upon the complaint.

Dated this 22nd day of September, 2005.

  
**UNITED STATES DISTRICT JUDGE**